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Rejection Under 35 U.S.C. 112

Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Office Action states that the phrase "may be" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

Applicants respectfully traverse this ground of rejection for the following reason.

Applicants note that the words following "may be" are not so much limitations of the claimed invention but are intended as merely descriptive of a conventional element that may, but need not, exist within an IP data payload. As such, the "may be" language is an accurate characterization of the IP data payload. Furthermore, as will be explained in more detail hereinbelow, whether the IP data payload contains the conventional element, is irrelevant.

More specifically, claim 1 states "the contents of said IP data payload of said IP packet exclusive of any information in any real time protocol (RTP) header which may be therein". Thus, the actual phrase of interest for the claim is "any real time protocol (RTP) header which may be therein" in its entirety, rather than simply the word "therein" which follows the words "may be". This phrase characterizes an RTP header, which is the conventional element that may, or may not, be within the IP data payload of any particular IP packet.

A careful reading of the claim reveals if the IP data payload does not contain an RTP header, then of course, it cannot be employed in the step of identifying, since it is not there. Likewise, if an RTP header is included in the IP data payload, then it is not employed in the step of identifying, because the claim language excludes it from use. So, whether or not an RTP header is present in the IP data payload, the result is the same, i.e., no use is made in the identifying step of any information in any RTP header which might be in the IP data payload.

Thus, the claim language is definite, notwithstanding the present of the term "may be". Indeed, the definite meaning of the claim would be readily apparent to one of ordinary skill in the art. In support of this notion, applicants note that the European

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counterpart to this application has issued in Great Britain, France and Germany (1175098, 1175098, 60100204.0) with a very similar claim 1 that has the same phrase "may be" as follows:

A method for processing an internet protocol (IP) packet (101, 111), comprising the step of identifying that said packet contains motion picture expert group (MPEG)-2 video as a function of only the contents of said IP data payload (111) of said IP packet exclusive of any information in any real time protocol (RTP) header which may be within said IP data payload.

Rejection Under 35 U.S.C. 102

Claims 1-6, 20-21, 26-27, 31, 34-36, and 40-43 are rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent No. 6,557,031 issued to Mimura et al. on April 29, 2003.

The Office Action states that Mimura et al. teaches all the limitations of the rejected claims.

This ground of rejection is traversed for the following reasons.

Although the Office Action maintains its previous grounds of rejection, applicants believe the Office Action continues to misconstrue certain aspects of Mimura et al., as well as certain elements of applicants' previous response. Therefore, applicants repeat their previous response, and clarify it with additional comments regarding the Office Action's statements in response thereto as follows.

As a general note, it appears that Mimura et al. determines that the IP packets contain MPEG video based on techniques that do not render applicants' invention obvious. More specifically, it appears that in Mimura et al. an IP packet is known to contain video based on address information. This can be seen, for example, from column 4, lines 52 through column 6, line 47, in which it is oft repeated that Mimura et al. assigns a correspondence from the IP address of the IP packets containing video to a PJD value, which is the 13-bit packet identifiers which come after the synchronization byte in the MPEG video transport stream (TS), which is used then used to route the TS video in the MPEG video network, e.g., a cable television or satellite system. In other words, it seems that in Mimura et al. that IP packets that contain MPEG video are identified based on information in the IP header, namely, an address, and then the PJD is assigned or

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associated therewith. Such a determination is not based on the IP data payload of an IP packet, nor is there any searching of the IP data payload, as required by various ones of applicants' claims.

Turning now to the specifics of applicants' previously presented arguments and the Office Action's response thereto, the first argument has been mischaracterized by the Office Action. Applicants did not argue that Mimura et al. does not disclose that the IP packets do not come out from the sources because MPEG-TS packets are not IP packets, as was asserted by the Office Action.

Instead, applicants pointed out that their invention is only directed to identifying those IP packets that contain video. Thus, all of the sections of Mimura et al. cited by the Office Action, such as column 2, lines 29-54, that relate to placing into an IP packet MPEG video from a known MPEG video source, e.g., video received from a cable television or satellite system, are totally irrelevant to applicants' invention. This is because it is known a priori that all that can come out from a known MPEG video source is MPEG video. Therefore, there is no need to examine the content of such a packet. Instead, that such a packet contains MPEG video is already known, since the packet came from an MPEG video source.

Additionally, applicants previously pointed out that IP packets do not come out from the MPEG sources. This is because MPEG Transport stream (TS) packets are not IP packets. So any processing in Mimura et al. of TS packets is excluded from the scope of applicants' claims, even if it were to use the same techniques disclosed by applicants, which, in any event, is not the case.

In response, the Office Action suggests that the IP packets are used in the Internet instead of the MPEG-TS packets, and thus Mimura et al. indirectly discloses that the IP packets come out from the sources. However, in contrast to applicants' invention, Mimura et al. never suggests how to detect from the payload of an IP packet that the IP packet contains video. Instead, Mimura et al. simply assumes or knows, perhaps from the address information, that packets headed for CATV Network via an internetworking unit contain MPEG video. This can be seen from the fact that in column 12, lines 49-50, it states that the "video transmission is made toward the CATV network from the server

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connected to the IP network". Thus, all that is disclosed by Mimura et al. is how to convert the data contents of IP packets that are already known to be MPEG video data in MPEG video signal (PES) format into an MPEG-TS signal format.

Since, without examination of their IP data payload the IP packets are of Mimura et al. are already known to be MPEG video data, Mimura et al. does not teach or suggest a step of identifying that a packet contains motion picture expert group (MPEG)-2 video as a function of only the contents of the IP data payload of the IP packet exclusive of any information in any real time protocol (RTP) header, as required by applicants' claims. Thus, Mimura et al. does not teach applicants' invention.

Regarding applicants' second argument, the Office Action states that Mimura et al. teaches all the limitations of applicants' claims 20-21, 31, 34-36, 40-43. However, the section of Mimura et al. cited in support of this position is not explained by the Office Action, nor is it explained how such section teaches applicants' claimed invention. Instead, the Office Action simply repeats some of applicants' claim language and states that column 9, line 5 to column 12, line 15 of Mimura et al. teach the recitations of that claim language. Such a statement is a gross mischaracterization of the teachings of the cited sections of Mimura et al.

Notwithstanding the Office Action's assertion to the contrary, as previously indicated, the sections of Mimura cited by the Office Action do not teach searching through the IP data payload of an IP packet for a pattern. Nor do they teach indicating that a packet contains MPEG video only when the pattern is found. Moreover, the cited section of Mimura does not teach determining whether a payload of an IP packet has a length equal to an integral multiple of the length of an MPEG-2 transport stream packet.

In actuality, the cited section deals with forming an MPEG transport stream packet that includes IP header information. Note that this is sort of the opposite function from that which requires applicants' invention.

No searching of IP packets is done for this purpose, and in fact IP packets don't even exist. Moreover, when, in the cited section, MPEG video in IP packets is to be extracted for conversion to transport stream packets, there is no searching involved. In the cited section it is, as previously explained, assumed that the IP packets are known to

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contain video. Instead, as explained in subsequent sections of Mimura et al., as well as column 4, lines 52 through column 6, line 47, this knowledge appears to be based on the IP header information of the IP packet, and is not based, as required by applicants' claims, on the content of the data payload of the IP packet, which seems to only contain MPEG video in PES format.

Thus, there is no teaching or suggestion in Mimura et al. to determine that an IP packet contains MPEG-2 data based solely on the IP data payload, exclusive of any RTP header therein.

Regarding claim 27, applicants' renew their third argument that the cited section of Mimura et al, i.e., column 9, line 43 through column 10, line 11, does not teach processing the IP packet with a priority assigned for packets containing video when the indicating step indicates that the IP packet contains video. The word priority does not appear anywhere in that section. Nor are there any synonyms for the word priority. Likewise, there are no words suggestive of the concept of priority anywhere in that section. Moreover, there is no suggestion of any other types of packets that might have a different priority than the video-containing packets.

Of course, the forgoing is the natural result of the fact that the cited section of Mimura et al. is related to the formation of MPEG-TS signals which include IP header information. Thus, there are no actual IP packets at this point, and consequently there cannot be any processing of IP packets, let alone processing of IP packets with different levels of priority. Also, the cited section does not have an IP packet that was identified as having video based on only the IP data payload, because there was no identification of IP packets.

Applicants remind the Examiner that their claims as currently presented clearly exclude any information in the RTP header from being considered in determining whether an MPEG video signal is present or not. Thus, only non-header information of any type is searched and used to determine the presence of MPEG video.

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Conclusion

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

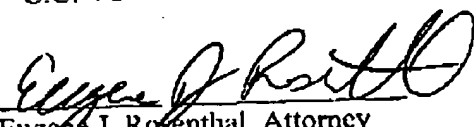
If, however, the Examiner still believes that there are unresolved issues, he is invited to call applicant's attorney so that arrangements may be made to discuss and resolve any such issues.

In the event that an extension of time is required for this amendment to be considered timely, and a petition therefor does not otherwise accompany this amendment, any necessary extension of time is hereby petitioned for, and the Commissioner is authorized to charge the appropriate cost of such petition to the **Lucent Technologies Deposit Account No. 12-2325**.

Respectfully,

J. P. Hearn
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By


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Lucent Technologies Inc.

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